

ORDINANCE NO. 00- 11

#542

AN ORDINANCE RELATING TO abandoned automobiles; to provide additional circumstances under which a vehicle is considered abandoned; to increase from \$100 to \$250 the maximum value of a vehicle that allows title to immediately vest in the municipality; to modify procedures for vesting of title; to authorize the municipality to retain for use, sell, or auction a vested vehicle; to harmonize with state law; to repeal conflicting ordinances and sections; to provide an effective date.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF FRIEND, NEBRASKA:

Section 1. Section 6-311 of the Municipal Code of Friend, Nebraska, is amended to read as follows:

**GENERAL OFFENSES; ABANDONED AUTOMOBILES.**

(A) (1) No person shall cause any vehicle to be an abandoned vehicle as described in division (B) (1), (2), (3), or (4) of this section.

*(Neb. RS 60-1907)*

(2) No person other than one authorized by the municipality or appropriate state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without license plates affixed or which is abandoned.

*(Neb. RS 60-1908)*

(B) A motor vehicle is an abandoned vehicle:

(1) If left unattended, with no license plates or valid In Transit decals issued pursuant to Neb. RS 60-320 affixed thereto, for more than six hours on any public property;

(2) If left unattended for more than 24 hours on any public property, except a portion thereof on which parking is legally permitted;

(3) If left unattended for more than 48 hours after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(4) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated; or

(5) If left for more than 30 days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under division (E) of this section.

No motor vehicle subject to forfeiture under Neb. RS 28-431 shall be an abandoned vehicle under this division.

*(Neb. RS 60-1901)*

(C) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit decals issued pursuant to Neb. RS 60320 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of \$250 or less, title shall immediately vest in the municipality.

*(Neb. RS 60-1902)*

(D) (1) Except for vehicles governed by division (C) of this section, the municipality shall make an inquiry concerning the last-registered owner of an abandoned vehicle as follows:

(a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or

(b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.

(2) The municipality shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, if unclaimed, either:

(a) It will be sold or will be offered at public auction after five days from the date such notice was mailed; or

(b) Title will vest in the municipality 30 days after the date such notice was mailed.

(3) If the municipality is notified that a lien or mortgage exists, the notice described in division (D)(2) of this section shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(4) Title to an abandoned vehicle, if unclaimed, shall vest in the municipality:

(a) Five days after the date the notice is mailed if the vehicle will be sold or offered at public auction under division (D)(2)(a) of this section;

(b) Thirty days after the date the notice is mailed if the municipality will retain the vehicle; or

(c) If the last-registered owner cannot be ascertained, when notice of such fact is received.

(5) After title to the abandoned vehicle vests pursuant to division (D)(4) of this section, the municipality may retain for use, sell, or auction the abandoned vehicle. If the municipality has determined that the vehicle should be retained for use, the municipality shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the municipality intends to retain the abandoned vehicle for its use and that title will vest in the municipality 30 days after publication.

*(Neb. RS 60-1903)*

(E) (1) If the municipal law enforcement agency has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody, it shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the agency, that the vehicle is no longer needed for law enforcement purposes, and that after 30 days the agency will dispose of the vehicle.

(2) This division shall not apply to motor vehicles subject to forfeiture under Neb. RS 28-431.

(3) No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this division unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

*(Neb. RS 60-1903.01)*

(F) Any proceeds from the sale of an abandoned vehicle, less any expenses incurred by the municipality, shall be held by the municipality without interest, for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the municipality.

*(Neb. RS 60-1905)*

(G) Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the municipality, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the municipality or its contractual agent or as a result of any subsequent disposition.

*(Neb. RS 60-1906)*

(H) The last-registered owner of an abandoned vehicle shall be liable to the municipality for the costs of removal and storage of such vehicle.

*(Neb. RS 60-1909)*

(I) For purposes of this section, **PUBLIC PROPERTY** means any public right-of-way, street, highway, alley or park or other state, county, or municipally owned property; **PRIVATE PROPERTY** means any privately owned property which is not included within the definition of public property.  
(Neb. RS 60-1901)

(J) Any person who violates the provisions of this section is guilty of an offense.

**Statutory reference:**

*Additional regulations, Neb. RS 60-1901 through 60-1911*

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

Passed and approved this 6<sup>th</sup> day of June, 2000.



(SEAL)

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Mayor

Ann L. Betka

Clerk